

SUMMARY REPORT OF INVESTIGATION**I. EXECUTIVE SUMMARY**

Date of Incident:	March 16, 2018
Time of Incident:	10:00 PM
Location of Incident:	[REDACTED]
Date of COPA Notification:	March 21, 2018
Time of COPA Notification:	3:14 PM

On March 16, 2017, the complainant, [REDACTED], was the subject of a street stop and received an Administrative Notice of Violation (ANOV) for having an open container of alcohol in his vehicle. [REDACTED] alleged the officers who stopped him did so without justification, detained him without justification, reached into his car without justification, handcuffed him without justification, and searched his car without justification. [REDACTED] also specifically alleged Officer [REDACTED] failed to provide his name and star number when asked. COPA gave the officers additional allegations for failing to complete an Investigatory Stop Report (ISR), failing to keep their Body Worn Cameras (BWC) activated, and engaging in unnecessary verbal altercations. COPA reviewed BWC footage, interviewed [REDACTED], and interviewed the three accused officers. COPA's findings are discussed in this report.

II. INVOLVED PARTIES

Involved Officer #1:	[REDACTED], Star # [REDACTED], Employee ID # [REDACTED], Date of Appointment: [REDACTED], 2015, Police Officer, [REDACTED] District, Date of Birth: [REDACTED], 1990, Male, White
Involved Officer #2:	[REDACTED], Star # [REDACTED], Employee ID # [REDACTED], Date of Appointment: [REDACTED], 2014, Police Officer, [REDACTED] District, Date of Birth: [REDACTED], 1987, Male, Hispanic
Involved Officer #3:	[REDACTED], Star # [REDACTED], Employee ID # [REDACTED], Date of Appointment: [REDACTED], 2014, Police Officer, [REDACTED] District, Date of Birth: [REDACTED], 1989, Male, Hispanic
Subject #1:	[REDACTED], Date of Birth: [REDACTED], 1990, Male, Black

III. ALLEGATIONS

Officer	Allegation	Finding
Officer [REDACTED]	<p>1. Conducted a traffic stop on [REDACTED] without justification, in violation of Rule 6.</p> <p>2. Detained [REDACTED] without justification, in violation of, in violation of Rule 6.</p> <p>3. Reached into [REDACTED] car without justification, in violation of Rule 2.</p> <p>4. Handcuffed [REDACTED] without justification, in violation of Rule 6.</p> <p>5. Searched [REDACTED] car without justification, in violation of Rule 6.</p> <p>6. Failed to provide your name and star number when asked by [REDACTED], in violation of Rule 37.</p> <p>7. Failed to complete an Investigatory Stop Report (ISR), in violation of Rule 6.</p> <p>8. Failed to engage Body Worn Camera (BWC) recording for the entire encounter with [REDACTED], in violation of Rule 6.</p>	<p>Not Sustained</p> <p>Exonerated</p> <p>Unfounded</p> <p>Exonerated</p> <p>Exonerated</p> <p>Not Sustained</p> <p>Sustained</p> <p>Sustained</p>
Officer [REDACTED]	<p>1. Conducted a traffic stop on [REDACTED] without justification, in violation of Rule 6.</p> <p>2. Detained [REDACTED] without justification, in violation of Rule 6.</p> <p>3. Handcuffed [REDACTED] without justification, in violation of Rule 2.</p> <p>4. Searched [REDACTED] car without justification, in violation of Rule 6.</p> <p>5. Failed to provide coats to [REDACTED] and [REDACTED] when asked, in violation of Rule 2 and Rule 6.</p> <p>6. Failed to complete an Investigatory Stop Report (ISR), in violation of Rule 6.</p>	<p>Not Sustained</p> <p>Exonerated</p> <p>Exonerated</p> <p>Exonerated</p> <p>Unfounded</p> <p>Sustained</p>

	7. Failed to engage Body Worn Camera (BWC) recording for the entire encounter with [REDACTED] in violation of Rule 6.	Sustained
Officer [REDACTED]	1. Conducted a traffic stop on [REDACTED] without justification, in violation of Rule 6. 2. Detained [REDACTED] without justification, in violation of Rule 6. 3. Searched [REDACTED] car without justification, in violation of Rule 6. 4. Used profane language to the effect of “open your fucking door” and “what are you fucking doing,” in violation of Rule 8 and Rule 9. 5. Failed to complete an Investigatory Stop Report (ISR), in violation of Rule 6. 6. Failed to engage Body Worn Camera (BWC) recording for the entire encounter with [REDACTED], in violation of Rule 6.	Not Sustained Exonerated Exonerated Unfounded Sustained Sustained

IV. APPLICABLE RULES AND LAWS

Rules

1. **Rule 2:** Prohibits any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department.
2. **Rule 6:** Prohibits disobedience of an order or directive, whether written or oral.
3. **Rule 8:** Prohibits disrespect to or maltreatment of any person, while on or off duty.
4. **Rule 9:** Prohibits engaging in any unjustified verbal or physical altercation with any person, while on or off duty.
5. **Rule 37:** Prohibits failure of a member, whether on or off duty, to correctly identify himself by giving his name, rank and star number when so requested by other members of the Department or by a private citizen.

General Orders

1. G02-01: Human Rights and Human Resources.

Special Orders

1. S04-13-09: Investigatory Stop System.

2. S03-14: Body Worn Cameras.¹

Federal Laws

1. Fourth Amendment to the United States Constitution: guarantees protection from unlawful arrest and unreasonable search and seizure to all persons in this country.

State Laws

1. 625 ILCS 5/11-804: Illinois law for when a signal is required.**V. INVESTIGATION²****a. Interviews**

COPA interviewed [REDACTED] on March 21, 2018.³ [REDACTED] related that on March 16, 2018, he was getting into his car and saw a police car. [REDACTED] waited until the officers left before driving off himself. The officers drove towards the corner of [REDACTED] and [REDACTED], before turning onto [REDACTED] towards [REDACTED]. [REDACTED] continued down [REDACTED], past [REDACTED] towards [REDACTED] where he stopped at a red light. At [REDACTED], the officers pulled in front of [REDACTED]. Two officers shone flashlights at [REDACTED] from the CPD vehicle. [REDACTED] girlfriend, [REDACTED], sat in his front passenger seat. [REDACTED] drove off when the light turned green. The officers drove into a nearby alley to make a U-turn. [REDACTED] was at [REDACTED] and [REDACTED], when he activated his turn signal to go left on [REDACTED] towards [REDACTED]. [REDACTED] turned right at [REDACTED] and [REDACTED], then turned on [REDACTED] where he pulled over near [REDACTED]. [REDACTED] then saw the officers speeding with emergency lights activated before they pulled behind [REDACTED].

[REDACTED] stayed in the car and put his hands in the air. The police were in an unmarked, blue SUV with three plain-clothes officers inside. An officer on the passenger side, Officer [REDACTED], asked [REDACTED] if his vehicle was a push-start and told him to turn off his car. Two officers on the driver's side, Officers [REDACTED] and [REDACTED], asked [REDACTED] for his license and insurance while another officer asked for his car keys. One officer, believed to be Officer [REDACTED], returned to the police car while the officer on the passenger side, believed to be Officer [REDACTED], told [REDACTED] to lower the “fucking window.”⁴⁵ Officer [REDACTED] was on the driver's side and reached into [REDACTED] car window

¹ The Body Worn Camera policy referenced in this report was effective from October 17, 2017 until April 30, 2018 (See Att. 30).

² COPA conducted a thorough and complete investigation. The following is a summary of the material evidence gathered and relied upon in our analysis.

³ Att. 4

⁴ Approximately 7:12 minute mark

⁵ This allegation was originally served to Officer [REDACTED] but was later identified to be said by Officer [REDACTED].

to unlock the door. Officer [REDACTED] told [REDACTED] to exit his car, and [REDACTED] complied. [REDACTED] also exited the vehicle and Officer [REDACTED] handcuffed her. [REDACTED] had an empty pint of liquor under a rear seat in his vehicle. [REDACTED] thought an officer may have seen it when he rolled down the windows.

Once [REDACTED] was in handcuffs, she was put behind [REDACTED] vehicle. The officers told [REDACTED] to put his hands on the car. [REDACTED] held his wallet in his hand. Officer [REDACTED] threw it on top of the car. [REDACTED] was handcuffed behind his back and placed behind his car. Officer [REDACTED] searched [REDACTED] vehicle while Officer [REDACTED] ran information inside the police car. [REDACTED] and [REDACTED] were detained for approximately 15 minutes while Officer [REDACTED] searched the vehicle. Officer [REDACTED] stood behind [REDACTED] and [REDACTED]. [REDACTED] stated the officers never asked [REDACTED] for her name or driver's license. [REDACTED] denied giving the officers permission to search his car. An officer, believed to be Officer [REDACTED], told [REDACTED] he was pulled over for not using his turn signal to park. [REDACTED] told COPA he had used his signal. [REDACTED] reported that all three officers searched his car. [REDACTED] saw them searching the glove compartment, arm rest, and trunk. [REDACTED] was ticketed for having an open container of alcohol. [REDACTED] and [REDACTED] were then free to leave. [REDACTED] alleged that he asked Officer [REDACTED] for his star number, but the officer ignored him. [REDACTED] stated when the officers returned his license and insurance, they also returned the bottle to his car. [REDACTED] threw it out. The officers did not give [REDACTED] field sobriety tests or ask [REDACTED] about drinking.

[REDACTED] stated that Officer [REDACTED] previously arrested [REDACTED] friend, [REDACTED], while [REDACTED] drove [REDACTED] former car on December 18, 2017.⁶ [REDACTED] car was impounded after [REDACTED] arrest and [REDACTED] sold it thereafter. [REDACTED] believed Officer [REDACTED] ran his plates from the incident with [REDACTED] and knew where [REDACTED] lived. [REDACTED] reported seeing Officer [REDACTED] near [REDACTED] house twice between December 18, 2017 and March 16, 2018. The first time, [REDACTED] was not in his car but Officer [REDACTED] drove slowly past him. The second time, [REDACTED] was driving and Officer [REDACTED] was in a car behind him. [REDACTED] saw the officer's lights were activated and he was speeding, but [REDACTED] kept going because the officer was not immediately behind him. Once [REDACTED] got to the express way, Officer [REDACTED] turned his lights off.

COPA interviewed Officer [REDACTED] on June 19, 2018.⁷ According to Officer [REDACTED], on March 16, 2018, he was partnered with Officers [REDACTED] and [REDACTED]. Officer [REDACTED] was assigned to the tactical team in the [REDACTED] District but not a specific mission. Officer [REDACTED] did not recall [REDACTED] by name but recalled performing a traffic stop on March 16, 2018. The officers "observed a vehicle pulled to the right, into a parking spot, without using its turn signal indicator."⁸ Officer [REDACTED] related the officers were driving behind [REDACTED] car prior to the traffic violation but denied following [REDACTED]. Officer [REDACTED] was unable to remember how long the officers were behind [REDACTED] vehicle before pulling him over. Officer [REDACTED] was unable to recall if [REDACTED] vehicle was already parked when the officers activated their lights and sirens. Officer [REDACTED] did not recall if he or one of his partners shone flashlights at [REDACTED] car before pulling [REDACTED] over.

Officer [REDACTED] recalled there was a female passenger in [REDACTED] car, known as [REDACTED]. Per Officer [REDACTED], [REDACTED] and [REDACTED] were asked to exit the vehicle because, when the officers approached, Officer [REDACTED] smelled the odor of fresh cannabis and one of Officer [REDACTED]

⁶ [REDACTED] was arrested by Officers [REDACTED] and [REDACTED] on December 18, 2017 (See Att. 31).

⁷ Att. 15

⁸ Approximately 5:40 minute mark.

partners observed an open bottle of alcohol in the rear passenger area. Officer [REDACTED] did not recall which partner told him about the open bottle of alcohol. Officer [REDACTED] described [REDACTED] as "extremely agitated."⁹ Officer [REDACTED] elaborated that [REDACTED] was loud, did not want to exit the car, disagreed with being pulled over, and disagreed with his car being searched. Officer [REDACTED] was unable to give examples of what [REDACTED] was saying and only recalled [REDACTED] was agitated. Officer [REDACTED] related [REDACTED] refused to follow verbal direction when the officers told him to exit the car. Further, the vehicle had dark tints that prevented seeing inside the vehicle well. Therefore, the officers decided it was safer to handcuff [REDACTED] and [REDACTED] so [REDACTED] could not hurt himself or the officers. When asked how his partner was able to see a bottle inside the car despite the dark tints, Officer [REDACTED] stated he did not know what his partner saw – just what he was told. When asked why [REDACTED] was handcuffed, Officer [REDACTED] related he did not know if she was handcuffed or not. Officer [REDACTED] did not know if he handcuffed [REDACTED] or if someone else did. Officer [REDACTED] did not recall hearing an officer tell [REDACTED] and [REDACTED] to "open the fucking door" or asking the civilians "what the fuck are you doing?" [REDACTED] vehicle was searched because of the strong odor of fresh cannabis, he could smell alcohol, and his partner saw a bottle of alcohol in the car. Officer [REDACTED] did not remember whether he refused to give [REDACTED] his name and star number. Officer [REDACTED] further related that his name and star number were on the citation given to [REDACTED]. ISRs were not completed because of a miscommunication between the three officers. Officer [REDACTED] thought one of his partners completed the ISRs and they thought Officer [REDACTED] would complete the documents. Officer [REDACTED] stated [REDACTED] was given an ANOV citation and the officers did not feel it was necessary to also issue a citation for a traffic violation.

Officer [REDACTED] denied having previously interacted with [REDACTED], but Officer [REDACTED] was aware he had impounded a vehicle owned by [REDACTED] driven by [REDACTED]. Per Officer [REDACTED], this was not the same vehicle [REDACTED] was driving on March 16, 2018. Officer [REDACTED] had not previously seen the car [REDACTED] was driving on March 16, 2018, and was unaware [REDACTED] owned that vehicle. Officer [REDACTED] believed [REDACTED] had drugs in his glove box because there was "a very strong odor of fresh cannabis emanating from the glove box."¹⁰

After watching his BWC footage, Officer [REDACTED] stated that at the time, he thought his BWC was activated at the beginning of the encounter. While Officer [REDACTED] wrote [REDACTED] ANOV, he looked down at his camera and saw it was turned off –he then activated the BWC. Officer [REDACTED] stated that when he turned off his BWC, the driver received the citation and walked back to the vehicle, his police action was over, and he did not think he still needed to be recording. When asked why portions of the officers' interactions with [REDACTED] and [REDACTED] were not recorded by anyone's BWC, Officer [REDACTED] denied it was intentional. Officer [REDACTED] did not recall telling [REDACTED] he was going to seize [REDACTED] vehicle. Officer [REDACTED] told [REDACTED] he took off on officers about three times previously and [REDACTED] vehicle was flagged as having fled from the police. Officers requested to administratively impound it for fleeing from the police. Officer [REDACTED] stated [REDACTED] car fled from Officer [REDACTED] twice and his car was taken from a police lot before it could be impounded. Officer [REDACTED] did not remember if the car [REDACTED] drove on March 16, 2018, had the same license plate as when [REDACTED] vehicle fled from him. However, it was not the same car. Officer [REDACTED] denied that on March 16, 2018, he knew he was pulling [REDACTED] car over. Officer [REDACTED] saw a car commit a traffic infraction and made a stop.

⁹ Approximately 8:08 minute mark.

¹⁰ Approximately 13:17 minute mark.

On June 19, 2018, COPA interviewed Officer [REDACTED].¹¹ On March 16, 2018, Officer [REDACTED] worked on a directed mission related to gang violence reduction in the [REDACTED] District. The mission involved patrolling specific areas but he could not recall the boundaries. Officer [REDACTED] recalled performing a traffic stop on [REDACTED] for failure to use a turn signal. Officer [REDACTED] stated he observed [REDACTED] commit the traffic violation. Officer [REDACTED] did not recall if the officers followed [REDACTED] prior to the stop. Officer [REDACTED] did not recall if [REDACTED] car was parked when the traffic stop occurred. Officer [REDACTED] did not recall anyone shining flashlights at [REDACTED] car before stopping him. Officer [REDACTED] stated [REDACTED] and [REDACTED] were asked to exit the vehicle because there was open alcohol in the car's back seat. [REDACTED] and [REDACTED] were handcuffed for officer safety. Officer [REDACTED] described [REDACTED] as agitated. He related [REDACTED] and [REDACTED] initially ignored officers command to roll down their windows. Officer [REDACTED] stated that in his experience, individuals who fail to comply or provide their license and are moving away might have a weapon in the car. Officer [REDACTED] believed he handcuffed [REDACTED]. Officer [REDACTED] did not recall an officer saying "open the fucking door" or "what the fuck are you doing?"¹²

The officers searched [REDACTED] vehicle based on seeing open alcohol inside, [REDACTED] agitated demeanor during the "initial approach," and smelling fresh cannabis inside.¹³ When asked to describe [REDACTED] agitation, Officer [REDACTED] stated [REDACTED] refused to roll down the window but his partners were on the driver's side and had a better view of [REDACTED] agitation. The officers did not complete ISRs because he was not with his usual partners and assumed the officer who wrote the ANOV, Officer [REDACTED], would write the ISR. Officer [REDACTED] stated [REDACTED] was not given a ticket for failing to use his turn signal because they gave him an ANOV and did not want to "double hit" [REDACTED] with two citations.¹⁴ Officer [REDACTED] had not previously interacted with [REDACTED], nor was he familiar with [REDACTED] car. Officer [REDACTED] recalled [REDACTED] and/or [REDACTED] asking for a coat and he responded by getting [REDACTED] coat out of the car and putting it on her shoulders. Officer [REDACTED] did not know [REDACTED]. Officer [REDACTED] was unfamiliar with [REDACTED] and Officer [REDACTED] history. Per Officer [REDACTED] the officers thought [REDACTED] had drugs and/or a gun in his glove box because of an odor of cannabis and he saw a bag with the "remnants of cannabis" in the vehicle.¹⁵

After watching his BWC footage, Officer [REDACTED] acknowledged he told [REDACTED] the officers would bring a dog to sniff his car. However, a dog was not brought "based on resources."¹⁶ Officer [REDACTED] stated there were no phone calls or efforts made to get a drug sniffing dog. Prior to the traffic stop, Officer [REDACTED] did not indicate he knew [REDACTED]. Officer [REDACTED] stated he thought he turned on his BWC when the incident began, and he turned it on once he looked down and saw it was off. Officer [REDACTED] stated when he was searching [REDACTED] car and leaned over on a car seat, his BWC turned off and that was why it terminated because the encounter with [REDACTED] ended.

¹¹ Att. 20

¹² This allegation was initially attributed to Officer [REDACTED]. Based on BWC, COPA believes Officer [REDACTED] made the comment. However, COPA interviewed Officer [REDACTED] about the comment prior to serving him an allegation and, are therefore, prohibited from bringing an allegation against him.

¹³ Approximately 8:10 minute mark.

¹⁴ Approximately 9:15 minute mark.

¹⁵ Approximately 10:20 minute mark.

¹⁶ Approximately 21:20 minute mark.

Officer [REDACTED] was interviewed by COPA on June 19, 2018.¹⁷ According to Officer [REDACTED] on March 16, 2018, he and his partners did not have a specific assignment, mission, or duty. Officer [REDACTED] recalled [REDACTED] was the subject of a traffic stop. Officer [REDACTED] first saw [REDACTED] car near the intersection of [REDACTED] and [REDACTED]. Officer [REDACTED] did not recall for how much time the officers followed [REDACTED] before pulling him over for failing to use a turn signal. Officer [REDACTED] related the officers were behind [REDACTED] from [REDACTED] and [REDACTED] until he was pulled over near [REDACTED]. Officer [REDACTED] did not recall if [REDACTED] car was parked when the officers engaged their lights and sirens. Officer [REDACTED] also did not recall any officers shining flashlights at [REDACTED] car before pulling him over. Per Officer [REDACTED], [REDACTED] and [REDACTED] were asked to exit the vehicle because Officer [REDACTED] observed alcohol in [REDACTED] car. [REDACTED] and [REDACTED] were handcuffed because of the strong smell of cannabis and alcohol in the vehicle. The officers searched [REDACTED] vehicle for the same reason. Officer [REDACTED] described [REDACTED] as agitated, aggressive towards police, and not wanting to exit the car.

Officer [REDACTED] did not recall interacting with [REDACTED] before or knowing who he was. Officer [REDACTED] had not previously seen the car driven by [REDACTED] on March 16, 2018. However, Officer [REDACTED] believed that a car owned by [REDACTED] fled from police after an attempted traffic stop. On March 16, 2018, the officers ran [REDACTED] plates before stopping him. Officer [REDACTED] denied knowing the vehicle from March 16, 2018 was possibly being operated by someone who may have fled from him in the past. Officer [REDACTED] did not recall Officer [REDACTED] stating he knew [REDACTED]. Officer [REDACTED] knew [REDACTED] and had arrested [REDACTED] while he was driving one of [REDACTED] cars. Officer [REDACTED] did not know that on March 16, 2018, he was stopping the owner of the car driven by [REDACTED] prior to his arrest.

Officer [REDACTED] terminated his BWC once the officers decided to write an ANOV because his law enforcement actions were over. Officer [REDACTED] denied the officers intentionally failed to record their full interactions with [REDACTED] and [REDACTED]. ISRs were not completed because of a miscommunication between Officer [REDACTED] and Officer [REDACTED]. Each officer thought the other would complete the ISRs. [REDACTED] was only given an ANOV, rather than a citation for failing to signal, because of officer discretion.

b. Digital Evidence

Body Worn Camera (BWC) footage was obtained from [REDACTED] arrest on March 16, 2018.¹⁸

Officer [REDACTED]

At 2:28Z, Officer [REDACTED] BWC began while he wrote [REDACTED] a ticket inside the squad car. The officer then exited his vehicle and gave [REDACTED] the ticket to sign. Another officer told [REDACTED] his car key was on his seat. Officer [REDACTED] told [REDACTED] he was responsible for having an open container of alcohol as the driver. Officer [REDACTED] turned off his BWC at approximately 02:31Z.

Officer [REDACTED]

¹⁷ Att. 25

¹⁸ Att. 12

Officer [REDACTED] BWC began around 02:13Z, while he handcuffed [REDACTED]. The officer then looked around the front seat of the car on the passenger's side. At 02:16Z, a glass bottle is seen on top of [REDACTED] car. At 02:17Z, Officer [REDACTED] stated he could not open [REDACTED] glovebox and [REDACTED] had "an ounce or two in there or he's gotta pistol in there." Officer [REDACTED] replied CPD previously arrested [REDACTED] and found heroine in the glovebox. Officer [REDACTED] asked for the rest of [REDACTED] car keys. [REDACTED] replied there were no additional keys. At about 02:21Z, Officer [REDACTED] asked how much "weed" was in the car. Officer [REDACTED] said they would bring a dog to sniff the car. Officer [REDACTED] said they would seize [REDACTED] car and get a warrant for the glovebox. Officer [REDACTED] continued searching [REDACTED] car until his BWC terminated at roughly 2:23Z.

Officer [REDACTED]

At approximately 02:12Z, the officers pulled [REDACTED] over, exited their vehicle, and approached. An officer told [REDACTED] to roll down his windows. Officer [REDACTED] approached the driver's side and seemed to look inside the rear driver's side window. An officer, presumably Officer [REDACTED], told [REDACTED] to give him his keys. Officer [REDACTED] asked [REDACTED] for his license and insurance and asked if there were any weapons in the vehicle. [REDACTED] handed the officer his driver's license at approximately 02:13Z. Around 2:13Z, an officer, believed to be Officer [REDACTED], told either [REDACTED] or [REDACTED] "open your fucking door" after seeing open alcohol in the car. The same officer asked [REDACTED] what he and [REDACTED] were "fucking doing". Around 02:33Z, Officer [REDACTED] opened the driver's door and told [REDACTED] to exit because he had open alcohol in the car. [REDACTED] wallet was in his right hand when he exited and put his hands on the car. Officer [REDACTED] handcuffed [REDACTED], while another officer said it smelled like "weed."

Officer [REDACTED] escorted [REDACTED] to the rear of his vehicle while Officer [REDACTED] brought [REDACTED] to the same location. Officer [REDACTED] also handcuffed [REDACTED]. Officer [REDACTED] asked [REDACTED] if he could search him, and [REDACTED] agreed. Officer [REDACTED] did a pat-down while Officer [REDACTED] looked inside [REDACTED] car with a flashlight. At 02:14Z, [REDACTED] asked why he was pulled over. Officer [REDACTED] said it was because [REDACTED] parked in front of a hydrant and failed to signal to pull over and park. Around 2:18Z, [REDACTED] and [REDACTED] asked for their coats due to the cold. Officer [REDACTED] said he could not leave them to get their coats. [REDACTED], who wore a short-sleeved shirt, asked if one of the other officers could get her coat. Officer [REDACTED] replied he was busy, and she should ask them herself. At 02:19Z, Officer [REDACTED] shouted towards Officer [REDACTED] to get [REDACTED] and [REDACTED] coats. Officer [REDACTED] responded by tossing the coats towards Officer [REDACTED]. Officer [REDACTED] and Officer [REDACTED] placed the coats on [REDACTED] and [REDACTED]. At 02:21Z, Officer [REDACTED] asked how much "weed you got in the glovebox." Officer [REDACTED] stated they would seize [REDACTED] vehicle and get a search warrant for the glove box. Officer [REDACTED] proceeded to search [REDACTED] vehicle, while Officer [REDACTED] told [REDACTED] he "took off on [Officer [REDACTED]] like three times" and [REDACTED] had "a bunch of impounds pending" on his car. At 02:23Z, an officer told [REDACTED] he was getting a ticket for the open container of alcohol and Officer [REDACTED] turned off his BWC.

c. Physical Evidence

No physical evidence was recovered.

d. Documentary Evidence

Per **Attendance and Assignment records**, on March 16, 2018, Officer █ worked Beat █ in Car █.¹⁹ Officer █ and Officer █ were also assigned to Beat █ and Car █ that day.

During his interview with COPA, █ allowed an evidence specialist to photograph the ANOV he received on March 16, 2018.²⁰ The listed offense was having open alcohol in his vehicle while driving. Officer █ issued the citation. COPA confirmed the ANOV through the Chicago Department of Administrative Hearings.²¹ In the administrative proceeding, █ was determined to be liable by plea.²²

VI. LEGAL STANDARD

For each Allegation COPA must make one of the following findings:

1. Sustained - where it is determined the allegation is supported by a preponderance of the evidence;
2. Not Sustained - where it is determined there is insufficient evidence to prove the allegations by a preponderance of the evidence;
3. Unfounded - where it is determined by clear and convincing evidence that an allegation is false or not factual; or
4. Exonerated - where it is determined by clear and convincing evidence that the conduct described in the allegation occurred, but it is lawful and proper.

A preponderance of evidence can be described as evidence indicating that it is **more likely than not** that the conduct occurred and violated Department policy. *See Avery v. State Farm Mutual Automobile Insurance Co.*, 216 Ill. 2d 100, 191 (2005), (a proposition is proved by a preponderance of the evidence when it has found to be more probably true than not). If the evidence gathered in an investigation establishes that it is more likely that the misconduct occurred, even if by a narrow margin, then the preponderance of the evidence standard is met.

Clear and convincing evidence is a higher standard than a preponderance of the evidence but lower than the "beyond-a-reasonable doubt" standard required to convict a person of a criminal offense. *See e.g., People v. Coan*, 2016 IL App (2d) 151036 (2016). Clear and Convincing can be

¹⁹ Att. 10

²⁰ Att. 9

²¹ Att. 32

²² Att. 14

defined as a “degree of proof, which, considering all the evidence in the case, produces the firm and abiding belief that it is highly probable that the proposition . . . is true.” *Id.* at ¶ 28.

VII. ANALYSIS

Allegation 1 against all three officers, that they stopped [REDACTED] without justification, is **Not Sustained.**

The United States Supreme Court addressed whether, under the Fourth Amendment, "reasonable suspicion can rest on a mistaken understanding of the scope of a legal prohibition." *Heien v. North Carolina*, 135 S. Ct. 530. The Court concluded it could, holding that the Fourth Amendment is not violated when a police officer pulls over a vehicle based on an "objectively reasonable, although mistaken, belief" traffic laws prohibited the conduct which was the basis for the stop. The Court explained, 'the ultimate touchstone of the Fourth Amendment is "reasonableness.'" *Id.* To be reasonable is not to be perfect, and so the Fourth Amendment allows for some mistakes on the part of government officials, giving them 'fair leeway for enforcing the law in the community's protection.' *Brinegar v. United States*, 338 U.S. 160, 176 (1949). Reasonable suspicion arises from the combination of an officer's understanding of the facts and his understanding of the relevant law. The officer may be reasonably mistaken on either ground. *People v. Gaytan*, 2015 IL 116223.

Illinois law requires the use of turn signals "to indicate an intention to turn, change lanes or start from a parallel parked position [...]" 625 ILCS 5/11-804(d). However, the law does not indicate whether parking from a driving lane constitutes a lane change. See *United States v. Stanbridge*, 813 F.3d 1032. Nor does case law does offer clarity. It is therefore unclear whether [REDACTED] alleged failure to use a turn signal before parking was unlawful. However, either way, there is no indication the officers' understanding of the law was objectively unreasonable, considering there is no legal guidance.

Here, [REDACTED] claims he used his turn signal before parking from the driving lane, while officers claim he did not. There is no in-car camera footage to support either claim. Noteworthily, [REDACTED] version of events is largely supported by BWC footage (except for [REDACTED] claiming the open alcohol bottle was empty, which is shown on camera containing liquid). The accused officer's evasiveness during their COPA interviews is also noteworthy. They seemingly only recalled details convenient to them. The officers appeared to withhold information and gave incomplete answers, largely claiming an inability to not recall what happened. Additionally, the fact [REDACTED] was not cited for failing to signal, failed to record the entire incident on BWC, and failed to complete ISRs detailing probable cause all weaken the officers' credibility. Additionally, when Officer [REDACTED] approached [REDACTED] car, his was gun drawn, suggesting the stop was not about the turn signal as the officers insisted. However, even with these facts against them, there is insufficient evidence to determine whether it is more likely than not [REDACTED] used his signal to park. Therefore, these allegations are **Not Sustained.**

Allegation 2 against all three officers, that they detained [REDACTED] without justification, is **Exonerated**.

If the traffic stop was based on legitimate probable cause that could be reasonably articulated, then a detention of [REDACTED] would be permissible. Moreover, the evidence shows that the officers observed an open container of alcohol and therefore at that point had cause to detain the [REDACTED]. Therefore, this allegation is **Exonerated**.

Allegation 4 against Officer [REDACTED] and **Allegation 3** against Officer [REDACTED], that they handcuffed [REDACTED] without justification, is **Exonerated**.

In Illinois, officers may handcuff occupants of a car during a traffic stop when there is a reasonable belief concerning their safety. Specifically, drug relating investigations may reasonably make officers apprehensive about their safety. See *People v. Duran*, 2016 IL App (1st) 152678 (Officers had reasonable suspicion the defendant was involved in criminal narcotic activity and thus, they were justified in handcuffing him as a safety precaution without transforming his temporary detention incident to a valid traffic stop into an arrest.)

Here, as officers approached to execute a traffic stop, a strong odor of fresh cannabis reportedly emitted from [REDACTED] car. The nexus between illegal drugs and weapons is well-settled. Officer [REDACTED] explicitly expressed that concern during his COPA interview. Further, once [REDACTED] lowered the car windows, an officer saw an opened alcohol bottle.²³ The combination of the opened bottle and what officers perceived as [REDACTED] agitated disposition would cause a reasonable officer in that position to handcuff, or otherwise secure, the subjects to ensure a safe encounter for all parties. Based on those facts and the relevant law, COPA finds these allegations **Exonerated**.

Allegation 3 against Officer [REDACTED], that he reached into [REDACTED] car to unlock the door without justification, is **Unfounded**.

Here, evidence shows Officer [REDACTED] did not reach into [REDACTED] car to unlock the door. Rather, BWC footage, around 9:13 pm, shows Officer [REDACTED] open [REDACTED] car door using the outside handle and order [REDACTED] out of the vehicle. [REDACTED] voluntarily unbuckled his seat belt and exited the car. Officer [REDACTED] then handcuffed [REDACTED]. Therefore, Allegation 3 against Officer [REDACTED] is Unfounded because the events did not occur as [REDACTED] alleged.

Allegation 5 against Officer [REDACTED], **Allegation 4** against Officer [REDACTED], and **Allegation 3** against Officer [REDACTED], that they searched [REDACTED] car without justification, is **Exonerated**.

Warrantless searches are per se unreasonable under the Fourth Amendment unless they fall within "a few specifically established and well-delineated exceptions." *Arizona v. Gant*, 556 U.S. 332, 338 (2009). The automobile exception was first recognized in *Carroll v. United States*, 267 U.S. 132 (1925), and clarified in *United States v. Ross*, 456 U.S. 798 (1982), it permits the police to search a vehicle if there is probable cause to believe it contains evidence of criminal activity. *Gant*, 556 U.S. at 347. The authority to search encompasses any area of the vehicle where evidence of the crime might be found. *Id.*

²³ 625 ILCS 5/11-502 proscribes transporting open alcohol containers.

"[T]he scope of the warrantless search authorized by th[e automobile] exception is no broader and no narrower than a magistrate could legitimately authorize by warrant." *Ross*, 456 U.S. at 825. So, if there is probable cause to search a vehicle for contraband or evidence of a crime, a police officer may search containers within the vehicle that could hold such evidence. See, e.g., *United States v. Edwards*, 769 F.3d 509, 514 (7th Cir. 2014) (search for evidence relating to ownership of car after its theft was reported); *United States v. Nickision*, 628 F.3d 368, 377 (7th Cir. 2010) (search for evidence of drug transactions seen during surveillance of defendant). *United States v. Charles*, 801 F.3d 855, 860.

Here, an officer saw an open alcohol container in [REDACTED] car. At that point, the officers had probable cause to believe [REDACTED] violated Illinois' prohibition against transporting open alcohol containers. It is well-settled, when there is probable cause a car contains evidence of criminal activity, officers may search areas of the car where related contraband may be found. Around 9:13 pm, BWC footage captures an officer asking why [REDACTED] car smells like "weed." While on scene, the officers are captured several times stating they smelled cannabis. Several reports also document the officers claim that [REDACTED] car emitted a strong smell of cannabis. So, along with probable cause to search based on the opened alcohol bottle, officers also had reasonable suspicion cannabis would be found in [REDACTED] car. The fact no marijuana was found does not disprove the officer's observations, where the marijuana could have been on [REDACTED] or [REDACTED] person or recently consumed. Therefore, Allegation 5 against Officer [REDACTED], Allegation 4 against Officer [REDACTED], and Allegation 3 against Officer [REDACTED] are **Exonerated**.

Allegation 5 against Officer [REDACTED], that he failed to provide coats to [REDACTED] and [REDACTED] [REDACTED], is **Unfounded**.

BWC captured Officer [REDACTED] getting the coats and placing one on [REDACTED] shoulders. Therefore, this allegation is Unfounded. However, COPA notes Officer [REDACTED] unreasonable delay in performing that action. Per weather reports from March 16, 2017, the weather was approximately 33 degrees Fahrenheit at 10:00 PM.²⁴ [REDACTED] wore a short-sleeved shirt and [REDACTED] wore a sweatshirt. The delay in retrieving [REDACTED] and [REDACTED] coats was seemingly punitive, especially considering Officer [REDACTED] dismissive claim of being too busy to get their coats.

Allegation 4 against Officer [REDACTED], that he used profane language to the effect of "open your fucking door" and "what are you fucking doing," is **Unfounded**.

As previously stated, this allegation was erroneously served to Officer [REDACTED] when it was later determined to be attributed to Officer [REDACTED]. COPA asked Officer [REDACTED] about those comments during his interview without serving allegations or notice, therefore COPA will not in this instance seek to add additional allegations now. Nevertheless, COPA stresses the need of all CPD members to use language that affords civilians dignified treatment.

Allegation 6 against Officer [REDACTED], that he failed to provide his name and star number when asked by [REDACTED], is **Not Sustained**.

²⁴ Source: <https://www.wunderground.com/history/daily/KORD/date/2018-3-16>

█████ stated Officer █████ ignored him. However, Officer █████ told COPA he did not hear █████ ask for his name and star number. That exchange was not captured on video. Ultimately, there is insufficient information to confirm whether the encounter occurred as █████ alleged. Therefore, this allegation is **Not Sustained**.

Allegation 7 against Officer █████, **Allegation 6** against Officer █████, and **Allegation 5** against Officer █████, alleges the officers failed to complete an Investigatory Stop Report. CPD directives require, “Sworn members who conduct an Investigatory Stop are required to complete an Investigatory Stop Report.”²⁵ An Investigatory Stop is the temporary detention and questioning of a person in the vicinity where the person was stopped based on Reasonable Articulable Suspicion that the person is committing, is about to commit, or has committed a criminal offense.²⁶

Here, during their COPA interview, all officers acknowledged their failure to complete the required ISR. The each claimed they thought another officer would draft the ISR. However, their confusion does not excuse their failure to uphold their obligation. Therefore, these allegations are **Sustained**.

Allegation 8 against Officer █████, **Allegation 7** against Officer █████, and **Allegation 6** against Officer █████, that they failed to activate or keep their Body Worn Cameras activated during the entire interaction with █████ and █████ are sustained.

Special Order S93-14 states, “The decision to electronically record a law-enforcement-related encounter is mandatory, not discretionary [...]” It also states, “The Department Member will active the system to event mode at the beginning of an incident and will record the entire incident for all law-enforcement-related activities.” All three accused officers failed to record the interaction with █████ and █████ from beginning to end. Officers █████ and █████ stated they failed to record the entire incident on accident. Officer █████ told COPA he recorded the entire incident until his law enforcement actions ended. However, Officer █████ is captured talking to █████ and █████ when Officer █████ terminated his BWC. Further, based on Officer █████ BWC, we know Officer █████ searched █████ car after he terminated his BWC. The fact that all three officers selectively turned their BWC off and on, and that portions of the civilians’ interactions with the officers were not recorded by any BWC is noteworthy. Therefore, these allegations are **Sustained**.

VIII. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS

a. Officer █████

i. Complimentary and Disciplinary History

²⁵ Chicago Police Department Special Order S04-13-09(III)(C).

²⁶ *Id.*

Officer █ has received four (4) Department Commendations, forty-four (44) Honorable Mentions, one (1) Police Officer of the Month awards, and two (2) Lifesaving awards. Officer █ has no publishable disciplinary history.

i. Recommended Penalty, by Allegation

1. **Allegation No. 7:** Failed to complete an Investigatory Stop Report (ISR), in violation of Rule 6.
2. **Allegation No. 8:** Failed to engage Body Worn Camera (BWC) recording for the entire encounter with █, in violation of Rule 6.

Transparency is critical to the success of both the Department and COPA. To that end, all interactions with citizens require the documentation of the nature and scope of the encounter. Where prescribed by general order, body worn cameras are necessary to ensure safe and professional policing as well as allow bodies like COPA to assess the credibility of complaints against department members. These functions are crucial to quality and professional policing. While the officers are not being held culpable for any violations specific to █ complaints, BWC video and proper reports would have assisted COPA in determining positive findings for many of the allegations. As such, based on the officers complimentary and disciplinary history, but also accounting for the severity of the infraction, COPA recommends a suspension of one (1) day.

b. Officer █

i. Complimentary and Disciplinary History

Officer █ has received three (3) Department Commendations, fifty-one (51) Honorable Mentions, one (1) Police Officer of the Month awards, and one (1) Lifesaving awards. Officer █ has no publishable disciplinary history.

ii. Recommended Penalty, by Allegation

1. **Allegation No. 6:** Failed to complete an Investigatory Stop Report (ISR), in violation of Rule 6.
2. **Allegation No. 7:** Failed to engage Body Worn Camera (BWC) recording for the entire encounter with █, in violation of Rule 6.

As articulated above, these infractions are crucial to public trust. Therefore, accounting for the officer's complimentary history COPA recommends one (1) day suspension.

c. Officer █

i. Complimentary and Disciplinary History

Officer █ has received four (4) Department Commendations, forty-two(44) Honorable Mentions, one (1) Police Officer of the Month awards, and one (1) Lifesaving awards. Officer █ has no publishable disciplinary history.

iii. Recommended Penalty, by Allegation

1. **Allegation No. 5:** Failed to complete an Investigatory Stop Report (ISR), in violation of Rule 6.
2. **Allegation No. 6:** Failed to engaged Body Worn Camera (BWC) recording for the entire encounter with █, in violation of Rule 6.

Like Officer █ partners, based on the severity of the offense and complimentary history of the officer, COPA recommends a one (1) day suspension.

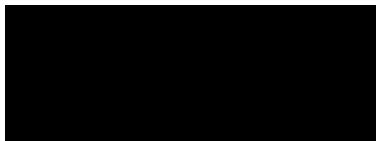
IX. CONCLUSION

Based on the analysis set forth above, COPA makes the following findings:

Officer	Allegation	Finding
Officer █	<ol style="list-style-type: none">1. Conducted a traffic stop on █ without justification, in violation of Rule 6.2. Detained █ without justification, in violation of, in violation of Rule 6.3. Reached into █ car without justification, in violation of Rule 2.4. Handcuffed █ without justification, in violation of Rule 6.5. Searched █ car without justification, in violation of Rule 6.6. Failed to provide your name and star number when asked by █, in violation of Rule 37.7. Failed to complete an Investigatory Stop Report (ISR), in violation of Rule 6.8. Failed to engaged Body Worn Camera (BWC) recording for the entire encounter with █, in violation of Rule 6.	<p>Not Sustained</p> <p>Not Sustained</p> <p>Unfounded</p> <p>Unfounded</p> <p>Unfounded</p> <p>Not Sustained</p> <p>Sustained</p> <p>Sustained</p>

Officer [REDACTED]	<p>1. Conducted a traffic stop on [REDACTED] without justification, in violation of Rule 6.</p> <p>2. Detained [REDACTED] without justification, in violation of Rule 6.</p> <p>3. Handcuffed [REDACTED] without justification, in violation of Rule 2.</p> <p>4. Searched [REDACTED] car without justification, in violation of Rule 6.</p> <p>5. Failed to provide coats to [REDACTED] and [REDACTED] when asked Rule 2 and Rule 6.</p> <p>6. Failed to complete an Investigatory Stop Report (ISR), in violation of Rule 6.</p> <p>7. Failed to engage Body Worn Camera (BWC) recording for the entire encounter with [REDACTED], in violation of Rule 6.</p>	Not Sustained
Officer [REDACTED]	<p>1. Conducted a traffic stop on [REDACTED] without justification, in violation of Rule 6.</p> <p>2. Detained [REDACTED] without justification, in violation of Rule 6.</p> <p>3. Searched [REDACTED] car without justification, in violation of Rule 6.</p> <p>4. Used profane language to the effect of “open your fucking door” and “what are you fucking doing,” in violation of Rule 8 and Rule 9.</p> <p>5. Failed to complete an Investigatory Stop Report (ISR), in violation of Rule 6.</p> <p>6. Failed to engage Body Worn Camera (BWC) recording for the entire encounter with [REDACTED], in violation of Rule 6.</p>	Not Sustained

Approved:



July 29, 2019

Andrea Kersten

Deputy Chief Administrator – Chief Investigator

Date

Appendix A

Assigned Investigative Staff

Squad#:	[REDACTED]
Investigator:	[REDACTED]
Supervising Investigator:	[REDACTED]
Deputy Chief Administrator:	Andrea Kersten
*Attorney:	[REDACTED]